IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Criminal Misc. Application No. 817 of 2005

Jasbir Singh S/o Shri Maya Singh
R/o Naya Gaon, Badripur
Post Office Nehru Gram
District Dehradun ..... Applicant

Vs

1. State of Uttaranchal
2. Dayal Singh Negi, S/o Sri Amar Singh
   R/o 204- (B), Adhoiwala
   Dehradun
   District Dehradun ..... Respondents

Sri R.P. Nautiyal, learned counsel for the petitioner
Sri Ramji Srivastav, learned counsel for the respondent No. 2
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the petitioner who is facing the trial in Criminal Case No. 490 of 2003 Dayal Singh Negi Vs Jasbir Singh under section 138 Negotiable Instruments Act pending in the court of Special Judicial Magistrate, IInd, Dehradun.

2. The counter affidavit has been filed by the respondent No. 2 and it has been stated in paragraph No. 5 of the counter affidavit that the matter before the trial court at its fag end, as the statement of the accused is to be recorded under Section 313 Cr.P.C.

3. Learned counsel for the petitioner has submitted that the accused intends to file the evidence in his defence before the trial court and this court may issue the direction to the trial court that the applicant may be allowed to produce the same in his defence.

4. However, this submission does not carry any force at this state, as the accused in the ordinary course of law will get the opportunity to adduce the evidence in his defence after the statement of the accused under Section 313 Cr.P.C. is recorded.

5. In case, if the petitioner who is an accused in this case moves an application before the trial court to adduce the evidence in his defence, the trial court may decide that application in accordance with the law.

6. In view of the above observation, the petition under Section 482 Cr.P.C. is dismissed. Interim stay order dated 23.11.2005 passed by this Court stands vacated.

(B.C. Kandpal, J.)

04.08.2006
ASWAL